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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,477	04/25/2001	Frederick S.M. Herz		7916
23628	7590	09/15/2005	EXAMINER	
WOLF GREENFIELD & SACKS, PC FEDERAL RESERVE PLAZA 600 ATLANTIC AVENUE BOSTON, MA 02210-2211			WINDER, PATRICE L	
		ART UNIT	PAPER NUMBER	
		2145		

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/842,477	HERZ ET AL.
	Examiner Patrice Winder	Art Unit 2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 June 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 2-5 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 2-5 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 2-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Markus Hofmann et al., Caching Techniques for Streaming Multimedia over the Internet (hereafter referred to as Hofmann).

4. Regarding claim 2, Hofmann taught a method for reducing bandwidth utilization in a system for distributing digital continuous media information from one or more servers, where users of the system are connected to a shared continuous media buffer (B. Dynamic Caching, pages 2-3), comprising the steps of:

a first user requesting a continuous media stream from a server (R1 request from server S);

the server periodically sending packets to the first user representing portions of the media stream;

the shared continuous media buffer capturing the encoded packets sent by the server, and redistributing them to the first user (ring buffer);

a second user requesting the continuous media stream from the server (R2 requests same object), wherein the request is made at a time when the continuous media buffer no longer retains first packets from the stream, representing a missed portion of the stream (user R2 needs a patch);

sending a burst of packets to the second user representing the missed portion of the stream, wherein the second user catches up to the buffer (sending patch); and

distributing the encoded packets representing the stream from the shared buffer after the second user users up to the shared buffer (subsequent data streamed to R1).

5. Regarding claim 3, Hofmann taught a method for reducing bandwidth utilization in a distributed communication system (B. Dynamic Caching, pages 2-3), comprising the steps of:

transmitting a series of data packets representing a data stream to a first local client (streaming to user R1);

retaining a most recent plurality of packets in a shared buffer (allocating ring buffer in network);

a second local client requesting the data stream, wherein initial packets from the data stream are no longer retained in the shared buffer (user R2 requesting same object);

providing a high speed burst of data packets to the second local client, wherein the burst of data packets includes those initial data packets no longer retained in the shared buffer (providing a patch); and

transmitting remaining data packets from the stream from the shared buffer (streaming subsequent packets to receivers).

6. Regarding dependent claim 4, Hofmann taught the data stream has a defined beginning (chunk 0, A. Segmentation of Streaming Objects and Smart Segment Replacement), and wherein the second local client requests the data stream from the defined beginning (requesting beginning of stream).

7. Regarding dependent claim 5, Hofmann taught the data stream has a defined beginning (chunk 0, A. Segmentation of Streaming Objects and Smart Segment Replacement), and wherein the second local client requests the data stream from a point other than the defined beginning (starting playback at t2).

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrice Winder whose telephone number is 571-272-3935. The examiner can normally be reached on Monday-Friday, 10:30 am-7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patrice Winder
Primary Examiner
Art Unit 2145

September 5, 2005